Marine Optical, Inc. *and* United Optical Workers Union, Local 408, International Union of Electrical, Radio & Machine Workers, AFL-CIO. Case 1-CA-16781

April 29, 1981

DECISION AND ORDER

On December 9, 1980, Administrative Law Judge Sidney J. Barban issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the Charging Party and the General Counsel filed exceptions and briefs in support thereof and in answer to Respondent's exceptions.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions[1] of the Administrative Law Judge, as modified herein, and to adopt his recommended Order.[2]

The Administrative Law Judge found that Respondent's failure and refusal to apply its collective-bargaining agreement with the Union at its new location, its refusal to bargain with the Union, and its unilateral changes in working conditions and wages violated Section 8(a)(5) and (1) of the Act. However, he failed, through an apparent inadvertence, to find that this conduct also constituted a violation of Section 8(d) of the Act, as alleged in the complaint. We shall amend his Conclusions of Law to correct this omission.

AMENDED CONCLUSIONS OF LAW

Substitute the following for Conclusion of Law 4:

"4. By failing and refusing to recognize and bargain with the Union as the exclusive bargaining representative of all the employees in the appropriate bargaining unit set forth hereinabove since on or about October 5, 1979, by unilaterally changing previously established terms and conditions of employment for the employees in the appropriate unit without bargaining with the Union, and by failing and refusing to apply the terms of its current bargaining agreement with the Union to the employees in the appropriate unit located at its Brockton, Massachusetts, facility, Respondent violated Section 8(a)(5) and (1) and Section 8(d) of the Act."

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Marine Optical, Inc., Brockton, Massachusetts, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, except that the attached notice is substituted for that of the Administrative Law Judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT refuse to recognize and bargain with United Optical Workers Union, Local 408, International Union of Electrical, Radio & Machine Workers, AFL-CIO, as the exclusive bargaining representative of the employees in the appropriate unit set forth below. The appropriate bargaining unit is:

All production employees employed by Marine Optical, Inc., but excluding all shippers, tool and die makers, machinists, machinist apprentices, maintenance employees, guards, watchmen, executives, foremen, assistant foremen, office and clerical employees, salesmen and professional employees.

WE WILL NOT refuse or fail to apply a current collective-bargaining agreement with the Union to the working conditions of our employees at our new location.

WE WILL NOT unilaterally change employee working conditions without bargaining with the Union.

WE WILL NOT advise our employees that we will refuse to recognize or bargain with the Union as the exclusive bargaining representative of the employees in the unit, or that we will not apply a current collective-bargaining

[1] In its exceptions, Respondent points out that the Administrative Law Judge erroneously found that the number of new hires on December 22 was 38; the correct number is 36. This erroneous finding in no way affects our decision herein.

We find it unnecessary to rely on the statement of the Administrative Law Judge that the answer admitted the complaint allegations as to the appropriate unit inasmuch as the other reasons set forth by the Administrative Law Judge amply support his finding that the unit alleged in the complaint is appropriate.

Chairman Fanning, in light of his dissent in *A-1 Fire Protection, Inc., and Corcoran Automatic Sprinklers, Inc.*, 250 NLRB 217 (1980), finds it unnecessary to distinguish that case. Member Jenkins, who participated in *A-1 Fire Protection, Inc.*, would note that there the Board majority found that the union voluntarily agreed to the employer's determination as to the scope of the unit; whereas here not only was there no agreement as to representation rights at the proposed new facility, the projected plans were themselves too speculative to permit any such agreement. Accordingly, Member Jenkins considers *A-1 Fire Protection, Inc.*, to be readily distinguishable from the situation here.

[2] We are substituting a new notice to employees to conform with the Administrative Law Judge's recommended Order. Pursuant to a motion from the General Counsel, we also are correcting the name of the Union as it appears in the notice.

agreement with the Union to the unit covered by the agreement, or that we will change working conditions without bargaining with the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of rights guaranteed under the National Labor Relations Act.

WE WILL recognize and, upon request, meet and bargain with the Union as the exclusive bargaining representative of all our employees in the unit set forth above with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, and, if an understanding is reached, WE WILL embody it in a signed agreement and apply it to the employees in the unit.

WE WILL, upon request of the Union, revoke the unilateral changes made in rates of pay, wages, hours of employment, and other terms and conditions of employment of employees in the unit set forth above, since on or about October 5, 1979, which were made without bargaining with the Union, and restore such benefits to the employees in accordance with the Order of the National Labor Relations Board.

WE WILL make the employees in the unit set forth above whole for any loss of earnings or employment benefits suffered since on or about October 5, 1979, as a result of our unilateral changes in the working conditions of the employees in the unit, or as a result of our refusal and failure to apply the bargaining agreement with the Union to the employees in the unit employed at our Brockton operation, with interest thereon, as ordered by the National Labor Relations Board.

MARINE OPTICAL, INC.

DECISION

STATEMENT OF THE CASE

SIDNEY J. BARBAN, Administrative Law Judge: This matter was heard at Boston, Massachusetts, on August 21, 1980, upon a complaint issued on February 29, 1980, as amended on August 11, 1980, based on a charge filed on October 29, 1979, and an amended charge filed on February 29, 1980, by the above-named Charging Party (herein the Union). The complaint alleges that the above-named Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act, as amended (herein the Act), by withdrawing recognition from the Union and refusing to apply an existing collective-bargaining contract with the Union to employees engaged at a facility to which Respondent relocated its operations, and by unilaterally and without prior notice to the Union, or giving the Union an opportunity to bargain thereon, changing certain working conditions in the appropriate unit involved, and violated Section 8(a)(1) of the Act by telling employees that the Respondent would not apply the existing bargaining agreement to its new location, that certain benefits and conditions of employment would be changed at the new location, and that the union members would be a minority at the new location. The answer to the complaint denies the unfair labor practices alleged, but admits allegation of the complaint sufficient to justify the assertion of jurisdicton under the Board's present standards (the Respondent, engaged at facilities located at Roslindale and Brockton, Massachusetts, in the manufacture and sale of eyeglass frames, annually ships from those facilities products, goods, and materials valued in excess of $50,000 directly to points outside the Commonwealth of Massachusetts), and to support a finding that the Union is a labor organization within the meaning of the Act.

Upon the entire record in this case, from observation of the witnesses and their demeanor, and after due consideration of the briefs filed by the General Counsel, the Union, and Respondent, I make the following:

FINDINGS AND CONCLUSIONS

I. THE FACTS

A. *Introductory*

From sometime prior to 1954 until sometime in October 1975 the production operations involved herein were carried on by predecessors of Respondent at a facility located in the Roslindale section of Boston (herein the Roslindale facility), during which period the Union was recognized as the exclusive bargaining representative of production employees at that facility, as evidenced by collective-bargaining agreements with the Union.

In October 1975, Respondent took over the operation of the Roslindale facility, recognizing the Union as the bargaining representative of the production employees and assuming the bargaining agreement then in effect. The most recent bargaining agreement between Respondent and the Union covering its production employees was effective from February 1, 1977, to February 1, 1980.

B. *Relocation of Operations*

1. Notification to the Union and the employees

In August 1979, Respondent discovered that it would not be able to renew its lease on part of the Roslindale facility, and would be required to move by November 30. On August 22, Respondent notified the Union of its probable move to Brockton, Massachusetts (herein the Brockton facility), where it had located space, and received permission from the Union to interview its employees to ascertain which of them would accept employment in Brockton. Of 69 employees interviewed, 21 indicated substantial interest in working in Brockton.

In late October, Respondent again interviewed 27 employees who had indicated interest in working for Re-

spondent at Brockton (this included employees who had stated an interest since August). During these interviews, in response to inquiries from employees, Respondent stated that it did not expect to recognize the Union at Brockton, unless a majority of the employees indicated a desire to be represented; that Roslindale did not intend to apply the bargaining contract in effect at Roslindale to the Brockton facility; and that wages, hours, and benefits would be different from those in effect at Roslindale. These intentions of Respondent became generally known among the employees.

2. Changes in working conditions

Since commencing operation of the Brockton facility in October 1979, Respondent changed the following conditions of its production employees at Brockton from those which obtained at the Roslindale facility: It instituted (1) a different wage schedule; (2) different hours of work, including different starting and quitting times, different lunch hours and two breaktimes instead of one; (3) a different health insurance plan; (4) a different vacation schedule; (5) a different holiday schedule; (6) it eliminated the pension plan; and (7) it did not apply the bargaining contract at the Brockton facility. These changes were made without affording the Union an opportunity to negotiate with respect to these changes.

3. Respondent's operations

Respondent began to move to the Brockton facility about the first of October 1979, and completed the move about November 30. During this period, Respondent continued in operation with some of its departments operating in Roslindale and some operating in Brockton. The final portion of the manufacturing process was moved first so that a finished product was usually worked on at some stage of production by employees at both locations. There was a gradual transfer of Roslindale production employees to the Brockton facility, as shown by the list below:

Week ending	*Roslindale*	*Brockton* New	from Roslindale
10/6	64	3	-
10/13	63	8	-
10/20	58	8	1
10/27	54	13	3
11/3	28	18	12
11/10	26	24	14
11/17	26	23	14
11/24	12	25	15
12/1		30	19
12/8		41	26
12/15		38	26
12/22		38	26
12/29		36	26

During the period when both Roslindale and Brockton were operating, the manufacturing manager for Respondent had responsibility for manufacturing at both locations; overall responsibility for operations and labor relations policies for both locations was vested in the same management officials; one administrative office purchased raw materials for both locations; Respondent maintained two personnel offices (one at each location) until early November when the office at Roslindale was closed down. During this period, wages, hours, and working conditions at each location were different, in accordance with the changes noted above.[1]

It was also stipulated that, at the Brockton facility, Respondent employs most of the same supervisory (seven of nine) and management personnel that it employed in Roslindale; uses the same machinery and equipment in the same manner that it was used in Roslindale; manufactures the same product using the same operations that it used in Roslindale; utilizes the same suppliers of raw materials that were utilized in Roslindale; has the same customers that it had at Roslindale; maintains the same inventory that it maintained at Roslindale; operates under the same name it formerly used; maintains the same job titles but different general job groups that it used in Roslindale; and requires that its employees possess the same type of skills as the employees had before the move.

The Brockton facility is located 17 miles from the Roslindale operation. The parties stipulated to various surveys showing where the former and the new employees live, the distances involved, the availability of public transportation (or lack of it), and the travel habits of the former employees. I shall not attempt to detail this information. Without question, the evidence shows that the move made it more difficult (in some cases probably much more difficult) for the Roslindale employees to accept work at Brockton. There is no indication that Respondent offered to assist the employees in the adjustment to the new problems.

4. The appropriate unit

Respondent contends that the appropriate unit in which it was and is obligated to recognize the Union is limited to the Roslindale facility. The General Counsel and the

[1] It was stipulated that "there was no interchange of production and/or supervisory employees" between the facilities. However, the record clearly shows and I find that there were transfers of production and supervisory employees from Roslindale to Brockton, as noted herein.

and the Union disagree. The various stipulations of the parties tend to blur these positions. Thus, the complaint in this matter alleges, and the answer admits, that the following constitutes a unit appropriate for bargaining within the meaning of the Act: "All production employees employed by [Respondent], but excluding all shippers, tool and die makers, machinists, machinist apprentices, maintenance employees, guards, watchmen, executives, foremen, assistant foremen, office and clerical employees, salesmen and professional employees." It is noted that this unit contains no geographical limitation.

Thereafter, the parties stipulated that the unit set forth in the last bargaining agreement—"such production employees of [Respondent] (except shippers, tool and die makers, machinists, machinist apprentices, maintenance employees, guards, watchmen, executives, foremen, assistant foremen, office and clerical employees, salesmen, professional employees and all other employees of the same or different nature of supervisory capacity) as are employed at . . . Roslindale, Massachusetts"—"constitut*ed* a unit appropriate for the purposes of collective bargaining" within the meaning of the Act (emphasis supplied), and that the Union represented this unit from about October 1954 until November 30, 1979, and further that, after November 30, the "production employees at the Brockton facility [with the same exclusions]" constitute a unit appropriate for collective bargaining within the meaning of the Act. For reasons which will be discussed in more detail hereinafter, on the facts of this case I find that the unit alleged in the complaint constitutes the unit appropriate for bargaining in this case.

5. Bargaining

Respondent, citing *A-1 Fire Protection, Inc., and Corcoran Automatic Sprinklers, Inc.*, 250 NLRB 217 (1980), contends that the Union acquiesced in a unit limited to Roslindale by failing to insist that the contract recognition clause be broadened during negotiations for the 1977-80 bargaining agreement. There is a conflict in the testimony as to what was said and done (or failed to be said and done) by Respondent's president, Theodore Izzi, and the Union's business manager, Sebastian J. Rebaldo, during these negotiations. I have carefully considered the testimony of both witnesses, and the positions of the parties, and believe that there is no necessity to decide the credibility issues involved. For the purposes of this decision, I shall assume the correctness of Izzi's testimony.

According to Izzi, Respondent and the Union met in January 1977 to negotiate the new agreement. At that time Izzi told Rebaldo that the leases on both buildings which Respondent occupied at Roslindale would expire "in the end of 1977," that both buildings were up for sale, and that Izzi was having difficulty in getting both leases renewed, but that Respondent was "continuing to talk" with the one owner who was reluctant to renew. According to Izzi, he said that there was a strong possibility that Respondent would have to move, but also that "We may or we may not have to move." (In fact, as events turned out, Respondent did not have to move at the end of 1977.) Izzi stated that Respondent did not have a site in mind as of that time, if it had to move. Izzi asserted that he was "in a quandary," that he understood that, if Respondent moved, and if a majority of the employees at the new location were new hires, there might be a legal question as to whether Respondent could continue to recognize the Union. For these reasons, Izzi suggested that a 1-year agreement would be more acceptable than the 3-year contract demanded by the Union.

Izzi testified that Rebaldo strongly objected to a 1-year agreement, saying that, if Izzi insisted upon this, it would be necessary to negotiate additional terms in the contract to protect the employees, that he did not want to get involved in that, that it would be "a problem for everybody." Rebaldo further said, Izzi recalled, that moving Respondent's operation during the term of the agreement would be "absolutely no problem," that he had had other companies who moved during the term of the contract and that they just took the contract with them. Rebaldo named three or four such companies. The Union did not request any change in the wording of the recognition clause.

Izzi said that he wanted to consult his counsel with respect to this problem, to which Rebaldo assented. Thereafter, Izzi reported to Rebaldo that counsel had said that there might be a problem in the event of a move, but that, if Respondent wanted to negotiate a 3-year agreement, it could do so. The parties thereafter signed the 1977-80 agreement.

It is stipulated that about September 19, 1979, the Union demanded bargaining for a bargaining agreement to succeed the 1977-80 contract. Respondent refused on the ground that it could not recognize the Union at Brockton unless a majority of the employees there desired such representation. From on or about October 5, 1979, Respondent has refused to recognize the Union as the bargaining representative of the production employees at Brockton.[2]

II. ANALYSIS AND CONCLUSIONS

1. *The contention that the Union acquiesced in limitation of the unit to Roslindale by the failure to insist on redefining the unit description during the 1977 bargaining.* It is clear that, even on the basis of Respondent's evidence, the Union during bargaining for the last collective-bargaining agreement did not waive or concede its claim to continue to represent Respondent's production employees in the event of a relocation of operations. What the parties were faced with during the 1979 negotiations, as frequently happens in collective bargaining, was the speculative possibility that a condition of employment might change during the term of the agreement. What the negotiators on both sides decided, in effect, as also frequently happens, was to leave the problem to be dealt with when and if it occurred, rather than open up an agreement otherwise satisfactory. To hold that such action constitutes a commitment as to how the problem

[2] The parties further stipulated that the Union declined Respondent's offer to arbitrate the issue under the 1977-80 agreement. None of the parties seems to rely on this. In any event, it is well settled that the Board will not defer to arbitration issues concerning appropriateness of units for the purposes of bargaining, which I believe lies at the core of the present controversy. See, e.g., *Massachusetts Electric Company*, 248 NLRB 155, 156 (1980).

will be dealt with, if it occurs, would establish a rule disruptive of bargaining and the stability which the Act seeks to promote. Such speculative occurrences frequently do not occur or, if they do, happen in ways that are not fully anticipated.[3] To require the parties to bargain about this would be, in the vernacular, to require the negotiators to "open up a can of worms," to no good purpose.[4]

2. *The Union's representative status at Respondent's new Brockton location.* After many years of recognizing the Union for its production employees at Roslindale, and with 4 months of its current bargaining agreement with the Union still to run, Respondent, through necessity, moved its operations 17 miles away, to Brockton. This move was made gradually, a department at a time from the first of October until the last of November 1979. During this period, Respondent continued as an integrated operation, and the production employees, notwithstanding the relocation of some of them to Brockton, continued to constitute a single unit, performing the same work, under essentially the same supervisors, on the same machinery, producing the same products for the same customers. Analysis of the figures available shows that during the first 2 months the Brockton facility was operated by Respondent the employees who had been employed at Roslindale constituted a majority of those in the production unit at both places and, by reason of the current contract, are presumed to continue their designation of the Union as bargaining representative. Although the Roslindale employees no longer constituted a numerical majority after Roslindale was completely closed, it is assumed, under well-established principles, that the new hires employed in the unit desired union representation in the same proportion as those employees they replaced. See *Westwood Import Company, Inc.*, 251 NLRB 1213 (1980).

In *Westwood Import, supra* at 1214, the Board also reaffirmed its prior holdings that in the case of a relocation of operations, during the period when an existing collective-bargaining agreement is a bar to a question concerning representation (as in the instant case), that such "an existing and effective collective-bargaining agreement remains in effect following a relocation, provided operations and equipment remain substantially the same at the new location, and a substantial percentage of the employees at the old plant transfer to the new location." It is not disputed in the present case that operations and equipment at Brockton were substantially the same as at Roslindale, or that a substantial percentage of the employees transferred to Brockton, or that at the time of the move a question concerning representation could not appropriately be raised under the existing contract.

On the basis of the above, and the record as a whole, I find that Respondent violated Section 8(a)(5) and (1) of the Act by (a) refusing since on or about October 5, 1979, to recognize and bargain with the Union as the exclusive bargaining representative of all production employees employed by Respondent, but excluding all shippers, tool and die makers, machinists, machinist apprentices, maintenance employees, guards, watchmen, executives, foremen, assistant foremen, office and clerical employees, salesmen and professional employees, which I find to be an appropriate unit within the meaning of the Act; (b) failing and refusing to apply its collective-bargaining contract with the Union to its production employees located at Brockton; and (c) unilaterally changing the working conditions of its production employees at its Brockton facility without affording the Union an opportunity to bargain concerning those changes. It is further found, in accordance with findings made hereinabove, and on the entire record, that Respondent violated Section 8(a)(1) of the Act by advising its employees at Roslindale that it would not recognize the Union or apply the existing collective-bargaining agreement to its operations at Brockton, and that various significant working conditions at Brockton would be different from those in effect at Roslindale.[5]

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. At all times material to this proceeding the Union has been and continues to be the exclusive bargaining representative, within the meaning of Section 9(a) of the Act, of all the employees in the following unit which is an appropriate bargaining unit within the meaning of Section 9(b) of the Act:

> All production employees employed by Marine Optical, Inc., but excluding all shippers, tool and die makers, machinists, machinist apprentices, maintenance employees, guards, watchmen, executives, foremen, assistant foremen, office and clerical employees, salesmen and professional employees.

4. By failing and refusing to recognize and bargain with the Union as the exclusive bargaining representative of all the employees in the appropriate bargaining unit set forth hereinabove since on or about October 5, 1979, by unilaterally changing previously established terms and conditions of employment for the employees in the appropriate unit without bargaining with the Union, and by failing and refusing to apply the terms of its current bar-

[3] In the present case, Respondent was not compelled to move in 1977, as anticipated. It did not know until 1979 where it would move to, or how many employees would transfer, or, probably, how the relocation would be accomplished.

[4] In *A-1 Fire Protection, etc., supra*, relied on by Respondent, the union, representing a unit of craftsmen, and knowing at the time that the employer had established a nonunion unit of the same type craftsmen under a different company name, nevertheless did not claim to represent the nonunion workers when bargaining with the employer for a new contract. That decision is clearly distinguishable from the present case.

[5] The General Counsel argues, with some merit, that the effect of this unfair labor practice was to discourage employees from transferring to Brockton who otherwise would have gone. Respondent appears to take the position that it was the difficulty of travel, not Respondent's actions, which dissuaded the employees. Respondent, however, having engaged in the unfair labor practices, bears the responsibility for disentangling the consequences. I believe that Respondent's actions more than likely affected the decision of some of the employees. However, I find it unnecessary to decide this issue.

gaining agreement with the Union to the employees in the appropriate unit located at its Brockton, Massachusetts, facility, Respondent violated Section 8(a)(5) and (1) of the Act.

5. By advising its employees that it would not recognize or bargain with the Union at its Brockton facility and would not apply its current bargaining agreement with the Union at Brockton, and would change established working conditions for employees at the Brockton facility in the appropriate unit, Respondent violated Section 8(a)(1) of the Act.

6. The aforesaid violations of the Act are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in unfair labor practices in violation of the Act, it will be recommended that Respondent cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It having been found that Respondent unilaterally, in violation of the Act, changed working conditions of employees in the appropriate unit, and has failed and refused to apply its 1977–80 bargaining agreement to certain employees in the appropriate bargaining unit since on or about October 5, 1979, it will be recommended that Respondent make whole the employees in the appropriate unit for any loss of earnings or employment benefits they may have suffered from on or about October 5, 1979, by reason of such unfair labor practices of Respondent until such time as Respondent restores to the employees those benefits and conditions which it unlawfully changed, with interest thereon to be computed in accordance with the Board's practice as set forth in *Florida Steel Corporation*, 231 NLRB 651 (1977). See also *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

Upon the basis of the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[6]

The Respondent, Marine Optical, Inc., Brockton, Massachusetts, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to recognize and bargain with United Optical Workers Union, Local 408, International Union of Electrical, Radio & Machine Workers, AFL–CIO, the Union herein, as the exclusive bargaining representative of all of Respondent's employees in the following appropriate unit:

> All production employees employed by Respondent, but excluding all shippers, tool and die makers, machinists, machinist apprentices, maintenance employees, guards, watchmen, executives, foremen, assistant foremen, office and clerical employees, salesmen and professional employees.

(b) Refusing or failing to apply a collective-bargaining agreement with the Union to the conditions of work of employees in the appropriate unit set forth above.

(c) Unilaterally changing the working conditions of employees represented by the Union for the purposes of collective bargaining within the meaning of the Act, without bargaining with the Union thereon or, if such conditions are covered by a current bargaining agreement with the Union, without the Union's agreement.

(d) Advising its employees that Respondent would not recognize or bargain with the duly designated representative of its employees, or would not apply a current bargaining agreement with the Union to the unit covered by the agreement, or would change working conditions of employees represented by the Union, without bargaining with the Union thereon.

(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed under the Act.

2. Take the following affirmative action which it is found will effectuate the purposes of the Act:

(a) Upon request, bargain with the Union as the exclusive bargaining representative of all the employees employed by Respondent in the appropriate unit set forth in paragraph 1(a) of this Order, with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Upon the request of the Union, revoke the unilateral changes in rates of pay, wages, hours of employment, or other conditions of employment made since on or about October 5, 1979, in the aforesaid appropriate unit, and restore the benefits and conditions to the employees which previously existed, until such time as Respondent bargains with the Union in good faith to an impasse or to an agreement.

(c) Make whole the employees in the aforesaid appropriate unit for any loss of earnings or employment benefits suffered since on or about October 5, 1979, as a result of Respondent's unilateral changes in the employees' working conditions or as a result of Respondent's refusal and failure to apply its bargaining agreement with the Union to all employees in the appropriate unit, as provided in the section hereinabove entitled "The Remedy."

(d) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(e) Post at its Brockton, Massachusetts, facility copies of the attached notice marked "Appendix."[7] Copies of

[6] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

[7] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by

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said notice, on forms provided by the Regional Director for Region 1, after being duly signed by a representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(f) Notify the Regional Director for Region 1, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith.

Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."